

# **EXHIBIT X**

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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CELESTE WILLIAMS, LAUREN CRUZ,

EMANUEL O'NEALE, BRANDON STURMAN,

LATRESHA HALL, LAKEISHA MITCHELL,

CHRISTINE BORBELY and JANINE APONTE

on behalf of themselves and others

similarly situated,

**Index No.**

07cv3978

TWENTY ONES, INC., d/b/a THE 40/40

CLUB, SHAWN CARTER p/k/a JAY-Z.

JUAN PEREZ and DESIREE GONZALES.

**Defendants.**

January 22, 2008

11:11 p.m.

DEPOSITION of THERESE RAZ, a Plaintiff  
herein, taken pursuant to Notice, and  
held at the offices of Littler Mendelson,  
P.C., 885 Third Avenue, New York, New York,  
before Leeann Bertorelli, a Court Reporter  
and Notary Public of the State of New York.

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## THERESE RAZ

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1 A. Yes.

2 Q. **Would they pay in cash at that time?**

3 A. If they had cash, or if they wanted

4 to pay with a card.

5 Q. **They could open a tab?**

6 A. They could open a tab.

7 Q. **How would you do that?**

8 A. I would ask the customer if they

9 want to leave it open or close it. If they

10 wanted to close it, I would open up a tab, put

11 the name of the customer. You would have to make

12 an imprint of the credit card as well.

13 Q. **You would take their credit card if**

14 **they wanted to open a tab?**

15 A. And ID, yes.

16 Q. **And identification? And at that**

17 **point you would take an imprint of the credit**

18 **card?**

19 A. Yes.

20 Q. **Would you also swipe it at that**

21 **time?**

22 A. Yes.

23 Q. **And you would hold it then**

24 **throughout the night until they were ready to** 19 **close their tab?**

2 A. Right. If it was over a hundred

3 dollars, we would have to have them sign the

4 imprint, the driver license ID number as well.

5 Q. **Did people also order food from you?**

6 A. Yes.

7 Q. **Did you follow the same procedures?**

8 A. Yes.

9 Q. **If someone paid cash, did you**

10 **include a tip in the amount of the order?**

11 A. If it was over \$30 we were able to

12 add gratuity to it.

13 Q. **How much?**

14 A. 20 percent.

15 Q. **And you would do that automatically?**

16 A. Yes.

17 Q. **Would you inform the customer of**

18 **their gratuity?**

19 A. Yes.

20 Q. **Did anyone ever refuse to pay that**

21 **amount?**

22 A. Yes.

23 Q. **Someone refused to pay that?**

24 A. Yeah. We would show them on the

1 check, and some people would dispute it.

2 Q. **And what would happen in that case?**

3 A. I would tell them this is how it

4 goes. This is the policy. If they continue to

5 argue, then at that point I would call a manager

6 over. And then either they pay for it, or they

7 don't. We don't really make them pay, because

8 it's gratuity, so.

9 Q. **When you received a cash tip, what**

10 **did you do with that amount?**

11 A. We would put it in a tip bucket.

12 Q. **Would all the bartenders use the**

13 **same tip bucket?**

14 A. Yes.

15 Q. **What would you do with your credit**

16 **card tips?**

17 A. We waited at the end of the night to

18 make sure it cleared, and then we would receive

19 it at the end of the night when we changed our

20 singles.

21 Q. **At each night you received all of**

22 **your credit card tips?**

23 A. Yes.

24 Q. **Did the bartenders share their tips?** 19 21

1 A. Yes.

2 Q. **How did that process work?**

3 A. We put everything together, add it

4 up, make a tip out to our barbacks, and then

5 split it among how many bartenders were working

6 behind the bar.

7 Q. **Would that be for all the bartenders**

8 **in the restaurant --**

9 A. No.

10 Q. **-- or for particular bars?**

11 A. Only for a particular bar.

12 Q. **Each bar would pool among**

13 **themselves?**

14 A. Yes.

15 Q. **And what would you tip out to the**

16 **barbacks?**

17 A. 20 percent.

18 Q. **And did you also receive a**

19 **percentage of tips from servers?**

20 A. Yes, if -- only on the weekdays.

21 Weekends, they would go to the service bar. So

22 during the week, if waitresses came to the

23 bartenders to get drinks, they would give us a

24 tip out.

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1       **Q.** So the service bars weren't opened       1    those meetings?

2 **every day?**   2    A. No.

3       A. No.   3    **Q.** So just servers and bartenders only?

4       **Q.** Was it only Friday and Saturday?       4    A. Yes.

5       A. Only -- or if there's a big event       5    **Q.** Who ran the meeting?

6       during the week.                               6    A. It would be Des, or if she wasn't

7       **Q.** And during the weekdays when the       7    available, it would be a manager.

8       service bar wasn't open, servers would come to       8    **Q.** And what was discussed at those

9       regular bars for their drinks?               9    meetings?

10      A. Only the main bar, if it was       10     A. Just how the weekend -- cause

11      downstairs.                                   11    usually the weekends are busy. So if anything

12      **Q.** And on those occasions the               12    went wrong, you know, we tried to fix it that

13      bartenders would receive a tip out from servers? 13    day, so it doesn't happen again. That's how

14      A. Yes.                                       14    everything went during the week, any changes.

15      **Q.** But during the weekends the main bar       15    **Q.** Did employees have an opportunity to

16      would not receive a tip out?               16    ask any questions that they have?

17      A. No.                                       17    A. Yes.

18      **Q.** The service bartenders would?       18    **Q.** Raise any concerns that they might

19      A. Yes.                                       19    have?

20      **Q.** Did the service bartenders pool       20    A. Yes.

21      their tips --                               21    **Q.** Was Shawn Carter ever present for a

22      A. No.                                       22    staff meeting?

23      **Q.** -- with other bartenders?           23    A. No.

24      A. Actually except for the mez -- the       24    **Q.** Was Juan Perez ever present for a

   23   25

1       upstairs bartender would pool with the mez bar.   1    **staff meeting?**

2       **Q.** What do you mean by the "mez bar"?       2    A. No.

3       A. The mezzanine bar is the upstairs       3    **Q.** Can you explain to me what you would

4       bar, which is -- they serve the customers. Then       4    do with your drawer at the end of your shift?

5       you have your mezzanine service bar, which only       5    A. They -- the manager at that time

6       serves the waitresses. And at the end of the       6    would just take the register and count it

7       night that service bartender would pool with the       7    themselves. And then we would just wait at the

8       mez bartender.                               8    end of the night to see if it's on point, like

9       **Q.** Were there regular staff meetings?       9    even.

10      A. Yes.

11      **Q.** How often?

12      A. Once a week.

13      **Q.** What day of the week was that?

14      A. Monday.

15      **Q.** Who would attend those meetings?

16      A. The whole staff.

17      **Q.** Would back of the house employees

18      attend that meeting?

19      A. No.

20      **Q.** So just service staff?

21      A. Servers and waitresses.

22      **Q.** Bartenders?

23      A. And bartenders, yes.

24      **Q.** Did the runners and barbacks attend

   10    **Q.** How long would you have to wait?

   11    A. A while. Maybe an hour, two.

   12    **Q.** Did you have to wait at the

   13    restaurant, or could you come back the next day

   14    to find out?

   15    A. No, we would have to wait.

   16    **Q.** And what would happen if your drawer

   17    was short?

   18    A. Depending on how much it was, we

   19    would give the money back. And then we would get

   20    a warning. If it was short again, we would get a

   21    second warning saying after that, you would get

   22    fired if it was short again.

   23    **Q.** You said it depended on how short it

   24    was?

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1   **worked there?**

2   A. Yeah.

3   **Q. And what time would that ordinarily**

4   **be?**

5   A. At the latest maybe 3, 2:30.

6   Between 2 and 3.

7   **Q. And how long would you have to wait**

8   **in order to have your drawer counted, and make**

9   **sure that everything was clear?**

10   A. During the week?

11   **Q. Uh-huh.**

12   A. Not too long, maybe an hour.

13   **Q. Was it different on the weekend?**

14   A. Yeah, because there was a lot more

15   that they have to go through, as far as servers

16   and bartenders.

17   **Q. So how long would it be on the**

18   **weekends?**

19   A. About an hour or two.

20   **Q. An hour or two? So to 5 or 6:00.**

21   A. Yes.

22   **Q. And you punched in every time you**

23   **started working at the 40/40 Club?**

24   A. Yes.

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1   **Q. Was that on the POSitouch system?**

2   A. Yes.

3   **Q. And did you do that regardless of**

4   **which bar you were at?**

5   A. Punch in at any of the POSitouch

6   systems? Yeah, it didn't really matter where you

7   punched in.

8   **Q. But you were required to do that**

9   **every day?**

10   A. Yes.

11   **Q. And also to punch out?**

12   A. Yes.

13   **Q. And when you punched out, did you**

14   **record your tips?**

15   A. We recorded a percentage of our

16   sales. That's what I was told that's how they

17   punched out. Bartenders -- the bartenders who

18   worked there said that you would punch out your

19   tips depending on your percentage of sales.

20   **Q. Other bartenders told you that?**

21   A. Yes.

22   **Q. What percentage of sales did you**

23   **use?**

24   A. Ten percent.

1   **Q. And you put in that number**

2   **regardless of the tips that you received?**

3   A. Yes.

4   **Q. Did you take breaks during your**

5   **shift?**

6   A. No.

7   **Q. What about just to use the restroom?**

8   A. It was hard, because you couldn't

9   really leave your station unattended.

10   **Q. What about for meals?**

11   A. No.

12   **Q. Did you eat at all your during**

13   **shift?**

14   A. I tried kind of.

15   **Q. So you could sometimes take a break**

16   **to have a meal?**

17   A. During that -- during the week if it

18   wasn't busy, and someone was able to watch your

19   bar, if there was another bartender, then yes.

20   But on the weekends it was busy, no.

21   **Q. Did you punch out during the time**

22   **you were taking those breaks?**

23   A. No.

24   **Q. How long were the shifts that you**

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1 A. But that's to open the bar. Then  
 2 during the -- then depending on a couple of days,  
 3 you could come in at 7 or later, depending on the  
 4 bar you're working at.

5 Q. A couple days during the week or the  
 6 weekend?

7 A. Weekend.

8 Q. Okay. Do you recall any specific  
 9 day that you worked more than ten hours?

10 A. Not specific.

11 Q. Do you have any knowledge concerning  
 12 the hours worked by any other employees at the  
 13 40/40 Club?

14 A. Meaning did they have issues?

15 Q. Do you have knowledge about what  
 16 hours they worked?

17 A. No.

18 Q. Did you take any vacations while you  
 19 were working there?

20 A. No.

21 Q. How was your schedule relayed to  
 22 you?

23 A. How would it relate to my --

24 Q. How did you become aware of what

1 Q. Did you ever fail to punch out?

2 A. Twice I had forgotten to punch out.

3 Q. Do you recall when those were?

4 A. No.

5 Q. How often did you work more than 40  
 6 hours in a week?

7 A. Maybe a couple of weeks in December  
 8 when it was a busy season for Christmas parties  
 9 in December.

10 Q. But generally you worked less than  
 11 40 hours?

12 A. A little less, maybe 30 -- between  
 13 30 and 40.

14 Q. Okay. So there were maybe two weeks  
 15 or so --

16 A. Two or three.

17 Q. -- that you worked more than 40?

18 A. More than 40.

19 Q. Do you -- I'm sorry. You said those  
 20 were in December?

21 A. In December, yes.

22 Q. Around Christmas-time?

23 A. Yes.

24 Q. Do you have any records of the hours

35 37

1 your schedule was each week?

2 A. We would get our schedule each week  
 3 at the meeting.

4 Q. Who gave that to you?

5 A. Des or the manager.

6 Q. Do you know who created the  
 7 schedule?

8 A. Des.

9 Q. Did you ever need to request a  
 10 change to your schedule?

11 A. Every week we fill out a form saying  
 12 what we can and cannot work, what days.

13 Q. You were filling that out for the  
 14 following week or for the current week schedule?

15 A. For the following week.

16 Q. What if you needed a change to the  
 17 current week schedule?

18 A. We would see if anyone could cover  
 19 it. And then we would approach, either the  
 20 manager or Des that -- about what date we needed  
 21 to take off, and this person is filling in. And  
 22 then they would make a -- initial it on the  
 23 schedule. So that they know that it was  
 24 confirmed by Des.

1 that you worked at the 40/40 Club?

2 A. No.

3 Q. Did you have the ability to print  
 4 out from POSitouch the hours that you had  
 5 worked?

6 A. Yes.

7 Q. But you never did so?

8 A. I never did --

9 Q. You never printed them out?

10 A. I printed them. I took it. But I  
 11 assumed that we would get something as far as a  
 12 check to show our hours.

13 Q. So what did you do with that  
 14 printout?

15 A. I keep it.

16 Q. So do you still have that?

17 A. No, I don't.

18 Q. When did you get rid of those?

19 A. Pretty much when I wasn't working at

20 40/40.

21 MS. SHEINKIN: Can we take a break?

22 MR. KIRSCHENBAUM: Sure.

23 MS. SHEINKIN: Just five minutes.

24

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1 bartender. The rest were servers.

2 Q. And tell me about your conversation  
3 with Emanuel.

4 A. Same thing. It was more just a lot  
5 of questioning.

6 Q. Well, it sounds like you're asking  
7 questions concerning why you haven't received  
8 money for this party. Were you also referring to  
9 not receiving wages?

10 A. That was already spoken about.  
11 Because as I said, majority of the time they  
12 would just tell us -- well, tell me, that no one  
13 ever received a paycheck. It was kind of the  
14 mystery question.

15 Q. Did they specifically tell you that  
16 they had not received wages for the hours they  
17 had worked?

18 A. No, they kind of just said, we never  
19 get a paycheck.

20 Q. Did anyone at the 40/40 Club ever  
21 tell you they had not received wages for the  
22 hours that they worked?

23 MR. KIRSCHENBAUM: Objection.

24 That's a vague question.

1 Q. So you weren't expecting any wages  
2 to be paid to you, you were just --

3 MR. KIRSCHENBAUM: Objection.

4 That's not what she said.

5 MS. SHEINKIN: I'm asking a  
6 question.

7 MR. KIRSCHENBAUM: Sure.  
8 Q. Is that correct, you weren't

9 expecting any actual wages to be paid?

10 A. I was expecting something.

11 Q. Just a stub that had that zeroed out  
12 balance on it?

13 A. It doesn't necessary have to be  
14 zero. It only depends on how much you make  
15 during the week. If taxes were taken out from  
16 what the wages were supposed to be. It could be  
17 a dollar. It would be 50 cents.

18 Q. How much money in tips did you make  
19 during the week?

20 A. During the week.

21 Q. Or in a given week?

22 A. In a given week maybe -- including  
23 the weekends, maybe 200, a little bit less.

24 Q. \$200 for a week in tips?

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1 Q. Do you understand the question?

2 A. They didn't specifically say -- they  
3 didn't say -- I mean the only way to know if you  
4 were getting paid is if you received a paycheck;  
5 right? So if you don't know -- if you're not  
6 receiving a paycheck, you don't know if you're  
7 getting paid.

8 Q. Well, do you know if they were  
9 referring to wages for hours worked as opposed to  
10 checks for parties?

11 A. Hours for work. Checks for parties  
12 were different. You worked an event, you get  
13 tipped out, but you get a paycheck for that.  
14 That's completely different. Hourly pay, that's  
15 something, even if it's nothing on the check you  
16 still need to receive something. At least that's  
17 what I had gotten at other establishments that I  
18 had worked at.

19 Q. And at these other establishments  
20 you'd end up with a zero balanced --

21 A. Yes.

22 Q. -- check? Is that also what you  
23 would expect to receive at the 40/40 Club?

24 A. Yes.

1 A. There were days where I walked out  
2 with nothing.

3 Q. Why would that happen?

4 A. Because there was no customers at  
5 the bar.

6 Q. So that's when you were at a not  
7 service bar?

8 A. That was when I was working at the  
9 main bar during the week, no customers. But we  
10 kind of still had to stay there anyway.

11 Q. For how long would that -- did that  
12 shift last?

13 A. Till 2, 3 as I said earlier.

14 Q. How many hours?

15 A. Go in at 4, leave at 2.

16 Q. And there were absolutely no  
17 customers during that entire time period?

18 A. There was customers, but my tips  
19 were \$5. There was maybe one customer, two max.

20 Q. What about the tip outs from the  
21 servers?

22 A. It wouldn't be much, because they as  
23 well weren't making money.

24 Q. And then at the end of the night,

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1           MR. KIRSCHENBAUM: That's your own 1           MR. MARKS: January, like two weeks  
 2 representation. 2 ago?  
 3           MR. MARKS: Well, the record states 3           THE WITNESS: Yes.  
 4 what she started to say. Please let me 4           Q. Are you referring to a W2 for 2007?  
 5 finish. 5           Work that you did in 2007 or work that you did in  
 6           So it's obviously relevant to get 6           2006? Are you referring to the document attached  
 7 some evidence from her perspective of what 7 as Exhibit C to your declaration?  
 8 she was paid. I don't see how you could 8           A. I'm sorry. Repeat that.  
 9 argue that it's not relevant. She's made 9           Q. The document attached as Exhibit C  
 10 representation to the government or 10 to your declaration?  
 11 whatever it is. Maybe it's not 11           A. Yes.  
 12 dispositive, but it's certainly relevant 12           Q. Which you have in front of you?  
 13 to how much she believes that she was paid 13           A. This one; right? That's C.  
 14 or not paid. 14           Q. No, it's --  
 15           MR. KIRSCHENBAUM: The case law is 15           A. It says C.  
 16 abundant with statements that employee tax 16           Q. Marked as Exhibit Raz A. Exhibit C  
 17 returns are not relevant, are 17 to your declaration.  
 18 presumptively inadmissible as evidence and 18           MR. KIRSCHENBAUM: Exhibit C to this  
 19 non-discoverable. And I'm ready to have 19 document. Is it all right if I turn the  
 20 you try and make your point at some other 20 pages for her?  
 21 occasion, but right now I'm instructing my 21           MS. SHEINKIN: Yes. Sure.  
 22 client not to answer your question. 22           A. This is not what I received.  
 23           MR. MARKS: Okay. Well, you know 23           Q. So you received a different W2?  
 24 that if we have to do that, we'll come 24           A. Yes.

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1           back and you'll have to pay. 1           Q. When did you first receive this  
 2           MR. KIRSCHENBAUM: That's fine. 2 document?  
 3           MR. MARKS: You want to have that, 3           A. What document?  
 4 that's fine. 4           Q. Exhibit C to Raz A.  
 5           MR. KIRSCHENBAUM: I'll take the 5           A. This right here?  
 6 consequences in stride. 6           Q. Yes.  
 7           MR. MARKS: Okay. 7           A. This is the first time I'm seeing it  
 8           BY MS. SHEINKIN: 8 right now, actually.  
 9           Q. Are you refusing to answer that 9           Q. This is the first time you're seeing  
 10 question? 10 it --  
 11           A. Yes. 11           A. Yes.  
 12           MR. KIRSCHENBAUM: Yes. 12           Q. -- even though it's attached as an  
 13           A. Yes. 13 exhibit to your declaration?  
 14           Q. Did you receive a W2 from 40/40 14           A. I had only received up to here.  
 15 Club? 15 This is what I have.  
 16           A. Yes, but it doesn't say much. 16           Q. I'm sorry?  
 17           Q. But you did receive it? 17           A. For me to see -- like what I looked  
 18           A. It doesn't say much. It doesn't 18 at and went over was this.  
 19 look like a W2 form I would normally receive. 19           Q. You've never seen the exhibits to  
 20           Q. When did you receive it? 20 your declaration?  
 21           A. January of this year. 21           A. No.  
 22           Q. So you received that in the mail 22           Q. Let's look at them. For instance,  
 23 from the 40/40 Club? 23 you have as Exhibit B a payroll report; do you  
 24           A. Yes. 24 see that document?

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1 A. Uh-huh.

2 Q. Do you have any reason to believe  
3 that this is not an accurate reflection of the  
4 hours that you worked at the 40/40 club?5 A. I wouldn't know. I didn't receive  
6 anything.7 Q. Are you looking at the right  
8 document, Exhibit B?

9 A. This one right here?

10 Q. Yeah. My question was: Do you have  
11 any reason to believe that the report is not an  
12 accurate reflection of your working hours at the  
13 40/40 Club?14 A. I wouldn't know though, because I  
15 didn't receive a paycheck.16 Q. My question was if you had a reason  
17 to believe that it's not accurate.

18 A. Where are the dates?

19 MR. MARKS: On the left.

20 A. So the first line is January 14th,  
21 second is January 21st?

22 Q. Right.

23 A. Why would it go up to February?

24 MR. MARKS: Cause you worked till

1 Q. Because it includes dates in  
2 February, is that why it's not accurate?3 A. Yes.  
4 MR. KIRSCHENBAUM: Do you mind if I  
5 just point to my client where the hours  
6 are recorded in this document?

7 MS. SHEINKIN: Go ahead.

8 THE WITNESS: Right. I understand  
9 that.

10 Q. Have you seen this document before?

11 A. No.

12 Q. You've never seen this document?

13 A. No.

14 Q. In your declaration, you say that  
15 this document was shown to you by your lawyers;

16 is that a false statement?

17 A. I seen the -- this one.

18 Q. You've seen Exhibit A?

19 A. Yes.

20 Q. But it's a false statement that you  
21 have previously seen the documents attached as

22 Exhibit B and Exhibit C?

23 A. C, I have not. C, I didn't see.

24 Q. Your lawyers never showed you that

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1 then?

2 THE WITNESS: No.

3 MR. MARKS: No?

4 THE WITNESS: I only worked from  
5 November 2006 to January of '07.6 Q. Other than the fact that it has  
7 dates in February, and you said that you stopped  
8 working in January, is there any reason that you  
9 have to doubt that these reports are an accurate  
10 reflection of your hours worked?11 A. I mean if this is -- is this  
12 everything? I mean where did December go?

13 Q. This is for 2007?

14 A. So then you would just count for the  
15 first three dates. So are you telling me that  
16 for February, and what is that six, that's June.  
17 I'm getting taxed for that?18 Q. I'm not telling you anything. I'm  
19 asking you if you have any reason to believe that  
20 this is not an accurate reflection of your

21 working hours at the 40/40 Club?

22 A. It's not.

23 Q. Okay. What --

24 A. I mean I'm trying to understand --

1 document?

2 A. These --

3 MR. KIRSCHENBAUM: Objection. First  
4 of all, it's attorney/client privilege.5 MR. MARKS: We'll invoke the fraud  
6 exception, because the declaration says  
7 she was shown it by her attorney. So  
8 we're allowed to explore that.9 MR. KIRSCHENBAUM: My communication  
10 to her is not an inference of any fraud.11 MR. MARKS: Well, I don't know. She  
12 swore to something that's apparently not  
13 true.14 A. These I've seen. This I have not  
15 seen.

16 Q. You have not seen Exhibit C?

17 A. No.

18 Q. But now, you have seen Exhibit B?

19 A. No, C, I have now seen. B and A, I  
20 have seen.

21 Q. When did you see Exhibit B?

22 A. When did I see B, when I met with  
23 him earlier.

24 Q. Today?

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1 it should have been. Because it was busy. I  
2 just didn't know -- I wasn't being careful at  
3 that time.

4 **Q. Okay. What happened?**

5 A. I had multiple credit card slips,  
6 and then I was kind of just going.

7 **Q. How did that issue come to light?**

8 A. At the end of the night.

9 **Q. Okay. What happened?**

10 A. Des approached me about it, asked me  
11 what happened. I don't know how it happened. I  
12 messed up. I took the wrong imprint by accident.  
13 And that was my story.

14 **Q. And at that time you didn't receive  
15 the tip for that check?**

16 A. No.

17 **Q. And what happened after 90 days,  
18 then you did receive it?**

19 A. No, I had left already by that time.

20 **Q. So you never went back to ask for  
21 it?**

22 A. No.

23 **Q. Do you have any knowledge of any**

24 **other employee having a tip retained because of a**

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1 **dispute with a credit card?**

2 A. Yes, but I do not know the name. I  
3 remember hearing that.

4 **Q. But you don't have any specific  
5 knowledge of any specific incident where that  
6 occurred?**

7 A. No.

8 **Q. Did you ever have any money taken  
9 from you for spills or breakage?**

10 A. Breakage.

11 **Q. That did occur?**

12 A. Yes.

13 **Q. On how many occasions?**

14 A. One.

15 **Q. What were the circumstances?**

16 A. A bottle broke.

17 **Q. A bottle of alcohol?**

18 A. Yes.

19 **Q. And what happened?**

20 A. It was me and another bartender I  
21 was working with at that time. A bottle broke,  
22 and we had to pay for it.

23 **Q. You and the other bartender?**

24 A. Yes.

1 **Q. Who was the other bartender?**

2 A. Jenny.

3 **Q. Jenny?**

4 A. Jenny.

5 **Q. How did the bottle break?**

6 A. The -- it's on glass, and because of  
7 the music being so loud the bass pushes it  
8 forward.

9 **Q. So neither of you were touching the  
10 bottle when it broke?**

11 A. No, we have to kind of monitor it  
12 and keep pushing it back. But at that time it  
13 was busy, and we just kind of didn't.

14 **Q. How much was the bottle?**

15 A. I think we had to pay 40 each,  
16 something like that.

17 **Q. Do you recall what it was?**

18 A. Bombay Sapphire.

19 **Q. Who did you pay the money to?**

20 A. I gave it to Jenny, and I believe  
21 Jenny gave it to Des or whatever manager.

22 **Q. Did somebody tell you that you had  
23 to pay that money?**

24 A. We had to say -- we had to say what

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1

1 happened, because at the end of the night in  
2 order for us to get a full bottle we have return  
3 an empty bottle. So we had to tell the manager  
4 that a bottle broke.

5 **Q. What manager?**

6 A. I think his name was Michael.

7 **Q. Michael?**

8 A. Michael.

9 **Q. Do you recall his last name?**

10 A. No.

11 **Q. Do you recall when this occurred?**

12 A. No.

13 **Q. And you gave \$40 to Jenny?**

14 A. Jenny said, do you have the money  
15 for the bottle, and I'll give it to the manager  
16 or Des.

17 **Q. Did you witness her give it to the  
18 manager?**

19 A. No.

20 **Q. So you don't know one way or the  
21 other whether or not she gave that money to  
22 anyone at the 40/40 Club?**

23 A. I didn't witness it.

24 **Q. Other than Jenny, did you witness**

18 (Pages 66 to 69)

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1 any other employee having to pay for breakage or 1 Q. What did she say?  
 2 spills? 2 A. Well, I overheard the news, and then  
 3 A. No, not that I saw or witnessed. 3 -- about what was going on.  
 4 Q. Have you ever seen or been involved 4 Q. You heard about the case in the  
 5 in any other breakage? 5 news?  
 6 A. No, only that one incident. 6 A. Yes, then she asked -- she had  
 7 Q. Have you ever spilled a drink? 7 texted me about what she was getting involved in.  
 8 A. I mean there was a mistake. 8 Q. She texted you?  
 9 Q. What sort of mistake? 9 A. Yeah.  
 10 A. Like if I heard a drink wrong, and I 10 Q. What did she say?  
 11 made a different drink. 11 A. That she was speaking to someone  
 12 Q. Okay. What did you do in those 12 that was involved in the case. And if I wanted  
 13 circumstances? 13 to be involved to call that person.  
 14 A. I would save it to see if I could 14 Q. Was that person an attorney?  
 15 use it again for another drink, and that's pretty 15 A. Yes.  
 16 much it. 16 Q. Did she give you any other  
 17 Q. But you didn't have to pay for that? 17 information about the case?  
 18 A. No. 18 A. No.  
 19 Q. Have you talked to any current or 19 Q. Have you ever seen Shawn Carter in  
 20 former employees of the 40/40 Club concerning 20 the club?  
 21 your claims in this matter? 21 A. Yes.  
 22 A. No. 22 Q. On how many occasions?  
 23 Q. Have you communicated with any 23 A. Maybe five times.  
 24 current or former employees since you've left the 24 Q. Was he there as a guest?  
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1 40/40 Club? 1 A. He would just come in whenever, I  
 2 A. Yes. 2 guess, he was in New York.  
 3 Q. Who? 3 Q. Just to visit the club?  
 4 A. Amber, Lauren, Shaquana, Kim, 4 A. (Witness nods head.)  
 5 Kimberly. 5 Q. Did he have an office in the club?  
 6 Q. Is Kim the same as Kimberly? 6 A. Not that I know of.  
 7 A. Yeah, there's a Kim. 7 Q. Did you ever have any communication  
 8 Q. Oh, two different people? 8 with him?  
 9 A. Yeah, and then there's Kimberly. 9 A. No.  
 10 Q. Is that on a social level? 10 Q. Did he ever give you any direction?  
 11 A. Yes. 11 A. No.  
 12 Q. Have you asked any of these 12 Q. Have you seen Juan Perez in the  
 13 individuals whether or not they want to join in 13 club?  
 14 this lawsuit? 14 A. Yes.  
 15 A. No. 15 Q. On how many occasions?  
 16 Q. Have you communicated with them at 16 A. A lot. He was there majority of the  
 17 all concerning this lawsuit? 17 time.  
 18 A. No. 18 Q. Did you ever communicate with him?  
 19 Q. How did you become involved in this 19 A. At the end of the night, as far as  
 20 lawsuit? 20 just seeing if our banks were okay. He would  
 21 A. Christine -- Christy told me about 21 count money. And we would go to him to see if  
 22 it. 22 everything was okay with our drawer. If we  
 23 Q. Christine Borbely? 23 needed to owe money. If our drawer was short.  
 24 A. Yes. 24 Q. Was that the only communication you

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1 had with him?

2 A. Yes.

3 Q. Did he ever give you any direction?

4 A. No.

5 Q. Do you know if either Shawn Carter  
6 or Juan Perez had ever hired any employees of the  
7 40/40 Club?

8 A. Not that I know of.

9 Q. Do you know any employees that  
10 either of them ever terminated?

11 A. No.

12 Q. Do you have knowledge concerning how  
13 other employees, other than servers and  
14 bartenders, were compensated?

15 A. As far as tips from customers?

16 Q. As far as how they're paid by 40/40  
17 Club?

18 A. Not to my knowledge.

19 Q. Did any position receive tips from  
20 customers other than servers and bartender?

21 A. No.

22 Q. And do you know how -- you've tipped  
23 out, you said, to barbacks?

24 A. Barbacks.

1 my sales.

2 Q. You never saw your sales?

3 A. (Witness shakes head.)

4 Q. How did you then know what the ten  
5 percent of your sales was that you were declaring  
6 as --7 A. I'm sorry, yes. When you had to  
8 punch out you could see a percentage -- you could  
9 see your sales. But I didn't see the actual  
10 printout.11 Q. You could see your sales for the  
12 day?

13 A. Yes.

14 Q. How did you tip out the barbacks if  
15 you hadn't yet seen your sales numbers?16 A. Actually -- I'm sorry. You know  
17 why, cause I've worked at so many places. It's  
18 kind of all together. We would see food sales,  
19 and that would be tipped out somehow. Honestly,  
20 I forgot how it worked. You would have to look  
21 at the food sales.22 Q. Because you also tipped out food  
23 runners?

24 A. Food runners.

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1 Q. Do you know how the barbacks were  
2 compensated by the 40/40 Club?

3 A. No.

4 MS. SHEINKIN: Can we take another  
5 break?

6 MR. KIRSCHENBAUM: Sure.

7 (A recess was taken.)

8 (Raz Exhibit E, SALES  
9 JOURNAL REPORT, was marked  
10 for identification.)11 (Raz Exhibit F, TIME RECORDS,  
12 were marked for identification.)  
13 (Raz Exhibit G, TRANSACTION REPORT,  
14 was marked for identification.)15  
16  
17  
18  
19

20 BY MS. SHEINKIN:

21 Q. Ms. Raz, when you closed each night,

22 you would have a report of how much you had made  
23 in sales that day?

24 A. Yes, I would assume so. I never saw

1 Q. How did you tip them out?

2 A. I believe a percentage of the sales.

3 Q. Of total sales, food and drink?

4 A. Total sales of food only.

5 Q. Are you saying there's two separate  
6 reports between food and drink?

7 A. Yes, there's two different lines.

8 There was like -- there was a food sale, I know  
9 that.10 Q. And drink sale. And that was on one  
11 single report?12 A. Well, the total -- I believe the  
13 total that we get to see is everything with the  
14 food and the drinks.15 Q. Okay. And that is something that  
16 you would see each night when you closed out?

17 A. Yes.

18 Q. And would it also distinguish  
19 between cash sales and credit card sales?

20 A. Yes.

21 Q. Okay. And can you please look at  
22 what I've marked as Exhibit Raz E.

23 A. Yes.

24 Q. It should be right in front of you.